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From: Jeffrey J. Chapp

Date: August 2, 2005

Your File No.: 09/395,455

Our Ref. No.: 81054881 (FGT 1113 PA)

Comments: Attached for filing is the response to the Examiner's Answer dated June 3, 2005, Serial No. 09/395,455. Thank you.

Total Pages (incl. Cover sheet) 8

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Jo Anne Croskey
(Operator)

28333 TELEGRAPH ROAD, SUITE 250, SOUTHFIELD, MICHIGAN 48034
TELEPHONE: (248) 223-9500 -- FACSIMILE: (248) 223-9522

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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AUG 02 2005

In re Application of:

Andrew Sarkisian, et al.

Serial No.: 09/395,455

Group Art Unit: 3623

Filed: September 14, 1999

Examiner: Colon, Catherine M.

Title: METHOD FOR PROFILING NEW VEHICLES
AND IMPROVEMENTS

Atty. Docket No.: 81054881 (FGT 1113 PA)

I hereby certify that this correspondence is being transmitted to Examiner Catherine M. Colon with the United States Patent and Trademark Office via facsimile (571-272-8300) on

August 2, 2005
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Jo Anne Croskey


(Signature)

REPLY BRIEF TO THE EXAMINER'S ANSWER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

Appellants submit this Reply Brief in response to the Examiner's Answer dated June 3, 2005.

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REMARKS

On pages 11-13 of the Examiner's Answer, it is stated that Cooper discloses a brand-attribute matrix, the association of brands, the evaluation of brands, the determination of brand personality importance, the generation of preferred vehicle brand positions and target vehicle characteristics, and the determination of brand profiles. This disclosure is based on the Examiner's broad interpretation or definition of the term "brand", as used within Cooper. Applicants have stated that this definition of the term "brand" is incorrect, is not generally or commonly used by one skilled in the art, is not intended by the Applicants, and is inconsistent with the specification of the present application and the prosecution history associated therewith.

It has been admitted in the prosecution history that claims ought to be interpreted in light of the specification. Applicants submit that to use the definition suggested by the Examiner's Answer, specifically that the term "brand" may be interpreted as a vehicle category or as a vehicle model, is contradictory to the specification of the present application. Applicants understand that when interpreting a claim one should not read limitations from the specification into the claim. However, Applicants submit that one should interpret the claims in a consistent defining manner with the use of such terms in the specification. Applicants have stated that the term "brand" refers to the "Make" of a product not to the car-category or to the model of the product. Applicants have provided examples of this definition and the differences between the stated terms. This definition is consistent with the specification and as such should be used in reviewing the claims.

Referring to MPEP 2111, if extrinsic reference sources evidence more than one definition for a term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with Applicants' use of the

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term. See *Brookhill-Wilk I*, 334 F. 3d at 1300, 67 USPQ2d at 1137. Although Applicants believe that the term "brand" was incorrectly used by Cooper, should the Examiner feel that such definition be a viable definition then one can clearly ascertain that there is more than one meaning to the term "brand". As such, the intrinsic record must be reviewed to interpret and identify the appropriate and consistent definition of the term "brand". Thus, the term "brand", once again and at least with respect to the present application, should be interpreted to mean the "Make" of a product.

On page 11, the Examiner's Answer states that Cooper in paragraph 4 on page 7 associates the brands, Camaro, Firebird, Mustang, and Corvette with the car category Small Specialty/Domestic. Applicants submit that nowhere in paragraph 4 is the term brand recited. Also, the terms Camaro, Firebird, Mustang, and Corvette do not refer to a vehicle brand, but rather to vehicle models. Furthermore, Cooper associates the term "brand" with car-category not with a vehicle model. This is clear by the labeling of the matrix of Table 2 as the brand attribute matrix, which lists car-categories not vehicle models. Thus, the attributes described in Cooper are not in relation to brands, as defined by the present application, but rather are in relation to car-categories.

On page 12, the Examiner's Answer states that the attribute labels on top of Table 2 may be considered attribute classes. Applicants traverse. The labels on top of Table 2 are the labels associated with specific attributes, as is stated in Cooper, they are not and cannot be considered attribute classes. An attribute class has multiple attributes associated therewith. Each label on the top of Table 2 refers to a single attribute. For example, the car-category Subcompact/Domestic has an overall length attribute of 171. The value 171 refers to a single attribute associated with a single car-category. The claimed invention groups multiple attributes into an attribute class as a means of defining

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a brand. The Examiner's Answer states that each of the attribute labels may be considered attribute classes as many values may fall within each class. Although each car-category has a different attribute value associated with each label, when one is referring to one of the labels one is referring to a specific attribute. The value defines the attribute for that category. For argument sake, if each label were an attribute class, it would not make sense to state that Cooper groups multiple values under each label to define a single car-category, since each value under a specific label is associated with different car-categories. Cooper does not develop a car-category, but rather just simply provides an overall understanding of existing car-categories. Besides the forming of a car-category attribute matrix to understand the overall state of a market structure does not form any groupings nor does it develop a brand profile.

On page 12, the Examiner's Answer again states that Cooper discloses that consumers evaluate brands on the basis of their underlying attribute values, that consumers have different ideal profiles of brands, and that consumers have different consideration sets of brands. Again the term brand in Cooper refers to a car-category not the Make of a product. Also, Applicants have provided arguments on pages 13-15 of the Appeal Brief which describe the differences between the stated consumer evaluations, ideals, and considerations and the claimed material. Applicants submit that these arguments remain valid and overcome this identified disclosure of Cooper.

On page 12, the Examiner's Answer states that Cooper, on page 3 in paragraph 2, discloses a multi-attribute model based on consumers' evaluation rules that place importance weights on vehicle attributes. Applicants have stated that the evaluation of a product by a consumer on the basis of various attributes is not the same as the grouping of particular attributes to form an attribute class. In weighing vehicle attributes, Cooper is stating which attributes are important

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for a particular car-category. In weighing the vehicle attributes Cooper is not grouping attributes to form an attribute class according to vehicle Make (brand) importance, as claimed.

On page 13, the Examiner's Answer states that Cooper discloses generating preferred vehicle brand positions and target vehicle characteristics where it states that consumers have different consideration sets of brands. Again Cooper is referring to car-categories not brands (Makes) of a product. Cooper groups the Lexus LS 400, the Cadillac STS, and the Infinity Q45 in the same car-category and states that one seeking comfort and prestige would seek for a vehicle in this car-category as opposed to another car-category. Also, in identifying existing car-categories one is not developing a car-category nor is one developing a preferred vehicle brand position or target vehicle characteristics. In identifying car-categories, for example, Cooper does not determine brand positions and target vehicle characteristics for all Cadillac models or for future vehicles produced having the Cadillac name.

The Examiner's Answer states that Cooper must determine brand profiles in order to determine market structures since defining market structures requires establishing consumers' affinities towards brand profiles. Again Cooper provides an overall understanding of an existing market structure based on car-categories. Cooper does not provide an overall understanding of an existing market structure bases on brand profiles and as such clearly does not develop or generate a preferred brand profile for a given product. Although understanding consumers' affinities towards various car-categories may provide some in site as to the preferences of consumers for each specific car-category, it does not provide or generate a preferred brand profile for a specific brand within that car-category. Multiple brands are associated with each car-category. There are several examples of this throughout Cooper.

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Thus, Cooper clearly fails to disclose a method of developing a brand profile for a new product and many of the tasks associated therewith, as provided in the limitations of the claims 1-4, 6-8, 13-15, 17-21, 26, and 27.

The Examiner's Answer notes on page 13 that claims 1 and 13 do not expressly recite how a preferred vehicle brand position is generated and how target vehicle characteristics are generated. Applicants traverse. This argument was previously presented by the Examiner and Applicants have clearly demonstrated that the claims do provide how a preferred vehicle brand position and target vehicle characteristics are generated, see arguments in the Appeal Brief on pages 16 and 17.

The Examiner's Answer states on page 13, once again, that it appears that Appellant intends more specific meanings for the terms "vehicle attributes" and "attribute classes". Applicants have stated, see arguments in Appeal Brief on page 17, that the meaning of the stated terms is irrelevant and that a more specific definition to be recited in the claims or elsewhere is unnecessary, since Cooper clearly fails to teach or suggest the developing of a brand profile for a new product. Cooper fails to teach or suggest the grouping of particular attributes, the grouping of attributes to form an attribute class, the grouping of attributes to form an attribute class corresponding to brand personality importance, the generating of a preferred product brand position, the identifying of a competitive set of products, the associating of product attributes with a preferred competitive level with respect to a competitive set, and the generating of target product characteristics.

Accordingly, Cooper fails to teach or suggest a method of developing a brand profile for a new product as claimed.

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The remainder of the Examiner's Answer, on pages 14-16, merely reiterates what the Examiner has previously stated with respect to claims 28-30 and 33. Applicants submit that these arguments have been overcome in the prosecution history, in the Appeal Brief, and in the above provided arguments.

In light of the above remarks, Applicants submit that all objections and rejections are now overcome. The application is now in condition for allowance and expeditious notice thereof is earnestly solicited. Should the Examiner have any questions or comments, she is respectfully requested to call the undersigned attorney.

Respectfully submitted,

ARTZ & ARTZ P.C.



Jeffrey V. Chapp, Reg. No. 60,579
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500

Dated: August 2, 2005